

LAW OFFICES OF  
**LOUIS E. GITOMER**

LOUIS E. GITOMER  
LOU\_GITOMER@VERIZON.NET

ENTERED  
Office of Proceedings

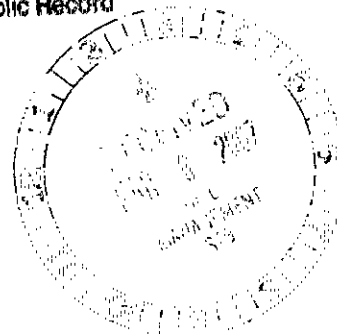
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Public Record

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THE ADAMS BUILDING, SUITE 301  
600 BALTIMORE AVENUE  
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(202) 466-6532  
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March 6, 2007

Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001



**Re: Finance Docket No. 34982, James Riffin, dba The Northern Central Railroad—Acquisition and Operation Exemption—Former Maryland and Pennsylvania Railroad Right-Of-Way**

Dear Secretary Williams:

CSX Transportation, Inc. ("CSXT") is submitting the original and 10 copies of Comments pursuant to the decision served in the above entitled proceeding on February 8, 2007. Also enclosed are 11 copies of a video and a disk containing the Comments in Word and pdf format.

Please time and date stamp the additional copy of this letter and the Comments, and return it to our messenger. Thank you for your assistance.

If you have any questions, call or email me.

Sincerely yours,

Louis E. Gitomer, Esq.  
Attorney for CSX Transportation, Inc.

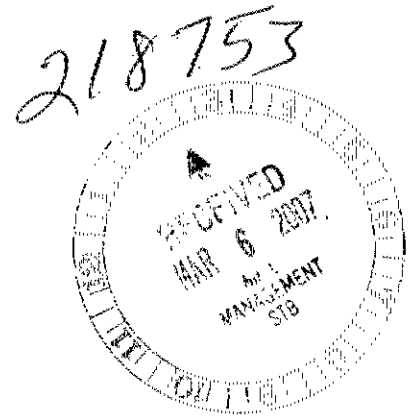
Enclosures

BEFORE THE  
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34982

JAMES RIFFIN D/B/A THE NORTHERN CENTRAL RAILROAD—ACQUISITION AND  
OPERATION EXEMPTION—IN BALTIMORE CITY, MD

CSX TRANSPORTATION, INC. COMMENTS AND REPLY TO MOTION FOR  
DETERMINATION



ENTERED  
Office of Proceedings  
MAR - 6 2007  
Part of  
Public Record

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Attorneys for: CSX TRANSPORTATION,  
INC.

Dated: March 6, 2007

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Finance Docket No. 34982

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JAMES RIFFIN D/B/A THE NORTHERN CENTRAL RAILROAD—ACQUISITION AND  
OPERATION EXEMPTION—IN BALTIMORE CITY, MD

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CSX TRANSPORTATION, INC. COMMENTS AND REPLY TO MOTION FOR  
DETERMINATION

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Pursuant to the decision of the Surface Transportation Board (the “Board”) served in the above-entitled proceeding on February 8, 2007, CSX Transportation, Inc. (“CSXT”) submits its comments and a reply to the Motion for Determination filed by James Riffin dba The North Central Railroad (“North Central”). CSXT respectfully requests the Board to dismiss with prejudice the Notice of Exemption filed by North Central on January 12, 2007 because there is no line of railroad to be acquired, and therefore there is no transaction within the criteria of 49 U.S.C. §10902 before the Board.

**BACKGROUND**

On January 12, 2007, North Central filed a Notice of Exemption pursuant to 49 U.S.C. §10902 and 49 C.F.R. §1150.41 (the “Notice”) to acquire and operate approximately 2.2 miles of former line within Baltimore City, MD (the “Property”).

The Notice did not provide details on the negotiation of an agreement (required by 49 C.F.R. §1150.43(c)), did not identify the railroad transferor or the owner of the property (as required by 49 C.F.R. §1150.43(e)(1)), and did not identify the mileposts of the subject property (required by 49 C.F.R. §1150.43(e)(3)). The Caption Summary failed to include the same

required information (49 C.F.R. §1150.44). The Board served and published a notice in the Federal Register (72 FR 3914) on January 26, 2007. In that notice the Board stated that “If, indeed, the line is not part of an existing line of railroad, a verified notice must be filed under 49 U.S.C. 10901 and 49 CFR 1150.31, rather than 49 U.S.C. 10902 and 49 CFR 1150.41.”

The Maryland Transit Administration (“MTA”) filed a petition to revoke the exemption and a petition to stay the effective date of the exemption on February 2, 2007, the Baltimore Streetcar Museum, Inc. (“BSM”) filed a petition to revoke and requested a stay on February 2, 2007. CSXT submitted comments and supported the stay in a letter filed on February 2, 2007.

On February 5, 2007, North Central replied to the Board’s notice and attempted to clarify that the Property is a line of railroad. CSXT replied on February 8, 2007, and BSM filed a reply dated February 19, 2007.<sup>1</sup>

The Board, Chairman Nottingham served a decision staying the effectiveness of the Notice on February 8, 2007, and established a schedule for further pleading.

North Central filed a Response and a Motion for Determination (the “Motion”) on February 20, 2007, which reiterates many of the arguments made in North Central’s February 5<sup>th</sup> filing. The Response clarifies that the North Central is not seeking to acquire the property of the BSM, but instead to acquire and operate the Property west of Falls Road between Falls Road and the Jones Falls river. North Central continues to claim that the Property is a line of railroad. However, based upon the decision in *Maryland & P. R. Co. Abandonment*, 295 I.C.C. 719 (1958) and the accompanying video, there is no line of railroad that North Central is seeking to acquire. Since there is no line of railroad that exists where North Central is seeking to acquire the

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<sup>1</sup> CSXT is submitting the BSM letter dated February 19, 2007, as Exhibit B since the pleading has not appeared on the Board’s web site.

Property, CSXT contends that North Central is abusing the Board's process and that the Notice must be dismissed.

## **ARGUMENT**

### **I. Comments on Response.**

North Central is not seeking to acquire and operate a line of railroad. It is seeking to construct a new railroad line. CSXT urges the Board to dismiss with prejudice the Notice because North Central has not presented a transaction where "[a] ... Class III rail carrier providing transportation subject to the jurisdiction of the Board under this part may acquire or operate an extended or additional rail line ...." 49 U.S.C. §10902(a). The language of section 10902 is clear. *See also Class Exem. for Acq. or Oper. under 49 U.S.C. 10902*, 1 S.T.B. 95 (1996) (the "10902 Exemption").

The Property is not a line of railroad. The Property was abandoned. The Property does not connect to the national railroad system. The existence of several rusted sections of track is not a line of railroad. The video attached to Exhibit A demonstrates that the Property is not a line of railroad. Exhibits 2 and 4 to the Response are representations of the Jones Falls Valley in the 1950's. Since that time, I-83 has been constructed through the Jones Falls Valley as the main north-south freeway serving Baltimore City from the north. The video is a much more accurate depiction of the situation today than are Exhibits 2 and 4.

It is CSXT's position that if the North Central wants to operate a railroad along the Jones Falls river, then North Central must seek and receive construction authorization from the Board and comply with the environmental requirements of 49 C.F.R. §1105.

North Central claims that it is a railroad because it acquired a line in Maryland from

CSXT through the OFA process<sup>2</sup> and acquired line in New Jersey.<sup>3</sup> North Central acquired the Maryland line from CSXT through WMS, LLC (“WMS”), North Central’s corporate affiliate. Since (1) the Maryland line was out of service due to a washout of rail at the time it was sold to WMS, (2) CSXT is the only railroad that can interchange with the Maryland line, and (3) CSXT has not interchanged any traffic to or from the Maryland line, CSXT contends that North Central has not provided transportation subject to the jurisdiction of the Board over the Maryland line. As far as the New Jersey line, North Central has received as notice of exemption from the Board, but to the best of CSXT’s knowledge, has neither acquired nor commenced operations over the New Jersey line. It is CSXT’s view that it is improper for North Central to use a notice of exemption to claim that it is a railroad when it has neither acquired the right to operate over the New Jersey property nor provided rail service. CSXT contends that North Central is not a “rail carrier providing transportation subject to the jurisdiction of the Board” as required to invoke the Board’s jurisdiction under section 10902(a).

North Central mistakenly relies on select portions of the decision in *Maryland & P. R. Co. Abandonment*, 295 I.C.C. 719 (1958) (the “MD-PA”) and some incomplete research to conclude that the portion of the Maryland & Pennsylvania Railroad Company (“Ma & Pa”) comprising the Property continues to be an active railroad.

The relevant portion of the *MD-PA* states:

At oral argument we were advised that negotiations have been undertaken for the sale of about 540 feet of the trackage affected herein to the millwork company in Baltimore. Approval of the proposed abandonment is specifically made subject to

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<sup>2</sup> *CSX Transportation, Inc.—Abandonment Exemption—in Allegany County, MD*, Docket No. AB-55 (Sub-No. 659X) (STB served December 14, 2005 and August 18, 2006).

<sup>3</sup> *James Riffin, d/b/a The Raritan Valley Connecting Railroad—Acquisition and Operation Exemption—on Raritan Valley Connecting Track*, STB Finance Docket No. 34963 (STB served December 20, 2006).

the condition that any part of the line, tracks, and appurtenant facilities essential to continued operation in the performance of railroad service shall be sold to any responsible firm, person, or corporation offering, at any time prior to the effective date of the certificate herein (35 days from its service), to purchase the line of railroad involved or any portion or portions thereof at a price not less than net salvage value of the property sought to be acquired.

*MD-PA* at 727. If a line of railroad had been acquired by a railroad in the late 1950's, approval of that acquisition would have been required from the Interstate Commerce Commission (the "ICC") under former 49 U.S.C. §5(2). North Central's research apparently found no ICC decision approving the acquisition of the 540-foot line by a railroad. The most likely scenario is that the Ma & Pa consummated abandonment of the entire line and then transferred its interest in the 540-feet to a third party who acquired the property as a spur line, which did not require ICC approval under former section 1(18). North Central's research would not have found an abandonment since such abandonment also did not require ICC approval under former section 1(18).

Contrary to North Central's argument, the presence of rail with certain markings is not evidence that a certain railroad conducted a common carrier operation over a line. Ma & Pa could have purchased the track from another railroad while it owned the 540-foot track. Another possibility is that if another railroad operated over the 540-foot track, it could have replaced damaged rail with the rail noted by the North Central. Regardless, North Central has provided no evidence of the acquisition of the Property Ma & Pa by another railroad despite its review of the Board's files.

North Central claims that it is unsure of whether to negotiate agreements with connecting railroads first or first obtain Board authority. The *10902 Exemption* is based on *Class Exemption—Acq. & Oper. of R. Lines under 49 U.S.C. 10901*, 1 I.C.C. 2d 810 (1985) (the "*10901*

*Exemption*”). *10902 Exemption*, at 101. In adopting the *10901 Exemption*, the ICC recognized that the exemption would eliminate uncertainty in negotiations by providing a definitive process for Board authorization. *Id.*, at 811. CSXT agrees. It is CSXT’s position that before a new entity commences operations with CSXT that operational, commercial and liability issues must be addressed. Not only does CSXT have an obligation to protect itself, but it must also be able to provide service to its customers without interruptions from third parties.

North Central cites to the experience of its predecessor WMS in dealing with CSXT. Response at 4-5. That experience is irrelevant in this proceeding. In this proceeding, there is no line of railroad for North Central to acquire. Therefore, there are no commercial, operational, or liability issues to negotiate.

North Central claims that the failure of the Property to connect to the national rail system is a benefit because it allows the parties to select the point to reconnect. North Central is wrong. Even if there was a line of railroad, which there is not, since it is not connected to the national rail system and is located solely Maryland, the Property is not part of the interstate rail network and is not subject to the Board’s jurisdiction. See 49 U.S.C. 10501(a)(2)(A). Moreover, as can be seen in Exhibit B, CSXT’s main east coast line is 20 to 30 feet higher than the Property, and the Norfolk Southern Railway Company operates over AMTRAK’s line, which is across the Jones Falls river from the Property and at a significant elevation above the Property. Moreover, it does not appear that an interchange can be built between the Property and the CSXT line in compliance with the CSXT engineering standards, which can be found at:

[http://www.csx.com/share/customers/id/docs/CSX\\_Industrial\\_Sidetrack\\_Manual\\_063003-REF20534-REF21769.pdf](http://www.csx.com/share/customers/id/docs/CSX_Industrial_Sidetrack_Manual_063003-REF20534-REF21769.pdf).



North Central seems to be arguing that *Maine, DOT–Acq. Exemption, Me. Central R. Co.*, 8 I.C.C.2d 835 (1991) and its progeny (the “*State of Maine Cases*”) provide a basis for North Central’s operation. However, those cases are distinguishable from the instant proceeding. In the *State of Maine Cases*, the railroad owned the real estate and track and materials and had an existing common carrier obligation. The railroad then sold the real estate and track and materials to a third party, but retained an exclusive and permanent freight operating easement. In this proceeding, North Central does not own the real estate or the tracks. In addition, North Central does not have an existing common carrier obligation.

North Central has not provided sufficient evidence to prove that: (1) North Central is a “rail carrier providing transportation;” and (2) the Property is an existing line of railroad. Hence, the transaction proposed by North Central does not meet the criteria of either section 10902 or section 10901. Moreover, North Central has not corrected the deficiencies in the Notice despite filing three pleadings with the Board. Based upon the record CSXT respectfully requests that the Board dismiss the Notice with prejudice.

## **II. Reply to Motion for Determination**

North Central requests the Board to make four alternative “determinations.” CSXT believes that there is no evidence or argument to support any of the “determinations” sought by North Central. Moreover, these “determinations” are similar to a request for declaratory order. The Board refused to rule on a similar request for declaratory order in *James Riffin d/b/a the Northern Central Railroad—Petition for Declaratory Order*, STB Finance Docket No. 34552 (STB served February 23, 2005) at 7, stating “Here, given the context in which it was filed – as an adjunct to a second notice to obtain authority to provide operations about which substantial questions have been raised – we see no basis for granting the petition for declaratory order at this

time.” CSXT urges the Board to reach the same conclusion with respect to the “determinations” sought by North Central.

Contrary to the first sought determination, as demonstrated above, the Property is not a line of railroad, and is not subject to the Board’s demonstration.

If there is a line of railroad, North Central, as a railroad, next seeks leave to amend the Notice so that North Central is seeking authority under 49 C.F.R. §1150.31. Again, the Property is not a line of railroad. Moreover, the proper procedure for North Central to follow is to dismiss the instant proceeding, not to extend it.

North Central next asks the Board to “determine” that the class exemption applies when there is opposition. It has been CSXT’s experience that the Board decides this issue on a case by case basis and that general rule is not appropriate. In this proceeding, it is North Central’s failure to seek appropriate statutory authority for a rail line that does not exist and failure to comply with the Board’s rules that make North Central ineligible to use the Board’s class exemption procedures.

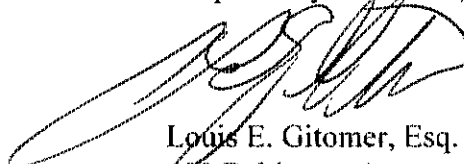
Finally, North Central asks the Board to determine that if the proposed transaction is not eligible to use the class exemption, that the Board grant North Central an individual exemption. The class exemptions under 49 C.F.R. §§1150.31 and 41 do not apply to the transaction that North Central is proposing. An individual exemption to acquire and operate a rail line under 49 U.S.C. §10502 from either 49 U.S.C. §10901 or §10902 is also not appropriate. There is no rail line in existence for North Central to acquire. The Property was abandoned under *MD-PA*, and North Central has presented to convincing evidence to the contrary.

## CONCLUSION

For at least the third time, North Central has sought an exemption from the Board to commence operations over what it contends is a line of railroad. In two of those proceedings, *James Riffin d/b/a the Northern Central Railroad—Acquisition and Operation Exemption—in York County, PA. And Baltimore County, MD*, STB Finance Docket No. 34484 (STB served April 20, 2004) and *James Riffin D/B/A the Northern Central Railroad—Acquisition and Operation Exemption—in York County, PA*, STB Finance Docket No. 34501 (STB served February 23, 2005) the Board revoked the exemption.

In this proceeding, North Central is seeking to acquire and operate a rail line that does not exist. The line has been abandoned. A few rusted sections of rail occupying substantially less than a 540-foot portion of the Property, disconnected from the national rail system, are all that remain. CSXT respectfully requests the Board to dismiss with prejudice the Notice.

Respectfully submitted,



Louis E. Gitomer, Esq.  
600 Baltimore Avenue  
Suite 301  
Towson, MD 21204  
(202) 466-6532

Steven C. Armbrust, Esq.  
Counsel  
CSX Transportation, Inc.  
500 Water Street (J150)  
Jacksonville, FL 32202  
(904) 359-1229

Attorneys for: CSX TRANSPORTATION,  
INC.

Dated: March 6, 2007

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the Comments and Reply to Motion for Determination in Finance Docket No. 34982, *James Riffin d/b/a The Northern Central Railroad—Acquisition and Operation Exemption—in Baltimore City, MD* was mailed via first class mail, postage prepaid or served electronically by agreement of the parties, on March 6, 2007, to the following parties:

Christopher M. McNally  
Baltimore Streetcar Museum, Inc.  
P. O. Box 4881  
Baltimore, MD 21211

James Riffin  
1941 Greenspring Dr  
Timonium, MD 21093

Charles A. Spitulnik  
Kaplan Kirsch & Rockwell LLP  
1001 Connecticut Avenue, NW  
Suite 905  
Washington, DC 20036

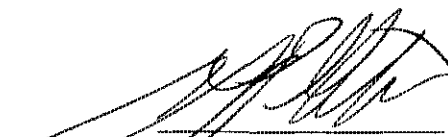
  
\_\_\_\_\_  
Louis E. Gitomer  
March 6, 2007

EXHIBIT A

VERIFIED STATEMENT OF LOUIS E. GITOMER

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Finance Docket No. 34982

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JAMES RIFFIN D/B/A THE NORTHERN CENTRAL RAILROAD—ACQUISITION AND  
OPERATION EXEMPTION—IN BALTIMORE CITY, MD

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VERIFIED STATEMENT OF LOUIS E. GITOMER

My name is Louis E. Gitomer, counsel to CSX Transportation, Inc. I am the person who made the video on Sunday March 4, 2007, of a portion of the property in question in this proceeding. I have traversed the entire 1.1 miles of Falls Road in issue in this proceeding beginning at West LaFayette Avenue. The purpose of this verified statement is to attest to the accuracy of the attached video and to provide a description of what appears on the video. The video covers only about 0.1 miles (about 540-feet).

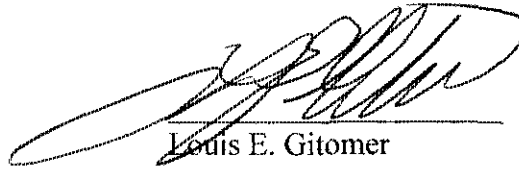
The film begins looking in a northerly direction along Falls Road from the corner of West LaFayette Avenue and Falls Road in Baltimore City. Behind the fence on the west side (the left) of Falls Road is an Amtrak facility. The second building on the east side of Falls Road is the former millworks.

Passing the former millworks building, tracks in Falls Road crossing from the east to the west side of Falls Road can barely be seen through the road. Continuing under the Howard Street Bridge on the west side of Falls Road, a guardrail separating Falls Road from the right-of-way described by North Central appears. The bridge in the distance is Maryland Avenue. Tracks do not appear until almost reaching the Maryland Avenue Bridge.

Coming out from under the Maryland Avenue bridge, rusted track can be seen in segments, as can the Jones Falls river, about 10 feet west of Fall Road, with the track between the road and the river. Continuing on, track can be seen with 20-foot tall trees growing within the tracks. The next bridge is the CSXT Bridge, which is part of CSXT's main east coast line. It can be seen that the CSXT Bridge is about 20 feet above Falls Road and the location where North Central proposes to operate a railroad.

Approaching the CSXT Bridge the remains of railroad track can be seen. Just before reaching the CSXT Bridge, a macadam path appears, which is used for biking, walking and jogging. This path continues until it nearly reaches the Potts Callahan facility. Directly across Falls Road from the path is the Baltimore Streetcar Museum. Across the Jones Falls to the west is Amtrak's line in the Northeast Corridor over which the Norfolk Southern Railway Company operates.

I Louis E. Gitomer, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement. Executed on March 6, 2007.



Louis E. Gitomer

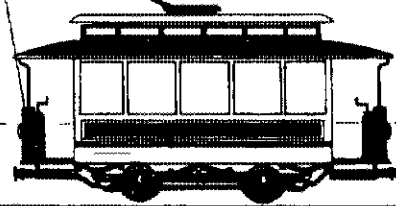


EXHIBIT B

BALTIMORE STREETCAR MUSEUM LETTER DATED FEBRUARY 19, 2007

# BALTIMORE STREETCAR MUSEUM, INC.

Founded  
1966



POST OFFICE BOX 4881 • BALTIMORE, MD 21211 • 410/547-0264

February 19, 2007

**Via First-Class Mail**

Department of Transportation  
Surface Transportation Board ("STB")  
1925 K Street, N.W.  
Washington, D.C. 20423-0001  
Attn: David M. Konschnik, Director, Office of Proceedings

**Re: STB Finance Docket No. 34982**

**Petition to Revoke Exemption Under 49 U.S.C. 10502(d) filed by the Baltimore Streetcar Museum in protest of the Verified Notice of Exemption Under 49 CFR 1150.41 filed by James Riffin d/b/a The Northern Central Railroad ("NCR") – Additional Comments by BSM**

Dear Mr. Konschnik:

I am writing on behalf of the Baltimore Streetcar Museum, Inc. ("BSM") in response to a letter filed by Petitioner James Riffin d/b/a The Northern Central Railroad ("NCR") on February 5, 2007 (attached hereto as Exhibit A), and as a follow-up and supplement to BSM's detailed Petition to Revoke Exemption filed on February 2, 2007 (hereafter "petition"). Mr. Riffin has alleged in his letter that he did not receive a copy of the comments submitted by the Baltimore Streetcar Museum, which we believe is simply not true. Attached as Exhibit B hereto is an affidavit from Gregory Wilson of Mason Dixon Process Service confirming that service of a copy of the Petition was effectuated on February 1 at 11:00am by hand-delivering a copy to Tim O'Neill, an employee of the business located at the address of record for James Riffin d/b/a The Northern Central Railroad (1941 Greenspring Drive), which is a private place of business. Mr. O'Neill stated to the process server that he was authorized to accept service for Mr. Riffin at this address. This affidavit is conclusive evidence that NCR did receive notice of the Petition.

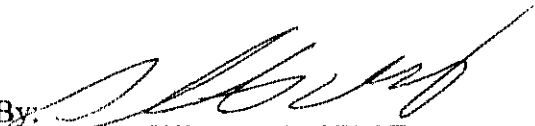
I also felt it necessary to point out several factual inaccuracies in NCR's February 5, 2007 letter. First, NCR cites to a website it incorrectly characterizes as "The Baltimore County, Maryland" website. In fact, the website Mr. Riffin referred to is entitled "Ghosts of Baltimore," which is owned and maintained by Adam Paul, a local transit enthusiast. The URL for the website is <http://www.btco.net/ghosts/>. It is noteworthy that this website is not an official Baltimore County or government website, and we contend that the information contained on this website should not

be considered authoritative to these proceedings in any way. Moreover, the photograph depicted of the trackage under the North Avenue bridge is misleading in its entirety – the trackage no longer exists in the area under the North Avenue bridge, as it was removed approximately three years ago in order to construct the bike trail that now exists alongside Falls Road (a very small unusable portion of rail still lurks beneath the pavement across Falls Road near this location, and on the opposite side of the road). You will note that the “Baltimore Ghosts” website was last updated on or about December 29, 2002 (see the “What’s New” link) before the construction of the bike trail. Therefore, we contend that Mr. Riffin’s statement that he inspected the rail depicted in this photograph (under the North Avenue bridge) is false and misleading information sufficient to make his original filing void *ab initio*, inasmuch as this rail no longer exists.

BSM also notes, as a supplement to the information provided in its original Petition, that the rail presently used by the streetcar museum was constructed entirely by museum volunteers between approximately 1968 and 2007. The rail is almost all low-weight street-railway rail, most of which was rescued from the streets of Baltimore (including t-rail and girder rail), and is gauged to Baltimore’s unique street railway gauge of five-feet four and a-half inches. 600 Volt trolley wire is strung above this rail to provide power to the electric streetcars which are operated on this line. The line is maintained by museum volunteers. This rail would be entirely unusable for railroad purposes.

BSM also hereby incorporates by reference the points and arguments raised in the comments filed in this matter, including but not limited to those filed by the Maryland Transportation Administration (“MTA”), CSXT, Norfolk Southern (NS) and the City of Baltimore, and renews its request that this matter be dismissed in its entirety with prejudice.

Baltimore Streetcar Museum, Inc.

By:   
Christopher M. McNally, Esq.

cc: James Riffin d/b/a The Northern Central Railroad (Via Certified Mail)  
1941 Greenspring Drive  
Timonium, Maryland 21093  
*Petitioner*

Louis E. Gitomer, Esq. (Via First-Class Mail)  
Law Offices of Louis E. Gitomer, Esq.  
The Adams Building, Suite 301  
600 Baltimore Avenue  
Towson, Maryland 21204  
*Counsel for CSXT*

Charles A. Spitulnik, Esq. (Via First-Class Mail)  
Kaplan, Kirsch, Rockwell  
1001 Connecticut Ave., Ste 905  
Washington, D.C. 20036  
*Counsel for MTA*

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City of Baltimore (Via First-Class Mail)  
Department of Law  
100 N. Holliday Street, Room 250  
Baltimore, Maryland 21202

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Baltimore Streetcar Museum, Inc.  
Board of Trustees (Via E-Mail)

FROM: James Riffin  
1941 Greenspring Drive  
Timonium, MD 21093  
(443) 414-6210

DATE: February 5, 2007

RE: FD No. 34982.

TO: Vernon A. Williams, Secretary  
Surface Transportation Board

ENTERED  
Office of Proceedings

FEB 5 - 2007

Part of  
Public Record

Dear Mr. Williams:

On February 2, 2007, three comments were filed in FD 34982 *Notice of Exemption - Acquisition and Operation - In Baltimore City, Maryland* ("NOE"). As of today, February 5, 2007, I have not received a copy of the comments submitted by the Maryland Transit Administration or by the Baltimore Streetcar Museum. I did download a copy of the comments that were posted on the Board's Web Site.

In footnote One of the Board's January 26, 2007 decision in this case, the Board indicated that if authority was granted to abandon the line which is the subject of this NOE, then my NOE should be filed under 49 USC §10901 and 49 CFR 1150.31 *et. seq.*, rather than under 49 USC §10902 and 49 CFR 1150.41 *et. seq.* One commenter, Louis Gitomer, counsel for CSXT, indicated the Interstate Commerce Commission ("Commission") granted the Maryland and Pennsylvania Railroad ("MPR") authority to abandon that portion of MPR's line that is the subject of my NOE. Mr. Gitomer cited *Maryland & P.R. Co. Abandonment*, 295 I.C.C. 719 (1958). In its opinion, the Commission stated the abandonment was "specifically made subject to the condition that any part of the line, tracks, and appurtenant facilities essential to continued operation in the performance of railroad service shall be sold to any responsible firm, person, or corporation offering, at any time prior to the effective date of the certificate herein (35 days from its service), to purchase the line of railroad involved or any portion or portions thereof at a price not less than the net salvage value of the property sought to be acquired." *Id.* at 727.

On page one of an article posted on the Baltimore County, Maryland Web Site, entitled *Unsung Monuments in "The Monumental City,"* appears a photograph depicting the portion of the MPR that went under the North Avenue bridge. The byline for the photograph states:

"Longest surviving piece of MA & PA trackage in Baltimore is this track at the North Avenue Bridge which was used as an interchange to the Pennsylvania Railroad tracks just west of Pennsylvania [sic] Station. In reality, the rails were laid down by the PRR around 1960, as they still used the rails after MPA abandonment to reach Morgan Millwork."

On Sunday, February 4, 2007, I inspected the rail which is depicted in this photograph, and those additional portions of rail still visible on that portion of the line which is the subject of . The rail is 130-pound rail. The Morgan Millwork turnout, which is located approximat

EXHIBIT

A

feet north of the top of the photograph, is a PRR 152-pound No. 8 turnout

On page 721 of the Commission's Opinion, the Commission stated: "The rail of the line's trackage consists of 12.35 miles of 70-pound weight laid in 1900; 18.9 miles of 80- and 90-pound weight laid as part of a gradual renewal program between 1917 and 1927; and 11.15 miles of similar weight laid since 1927." On page 726 of the Opinion, the Commission stated: "The millwork warehouse at Baltimore [Morgan Millwork] receives between 120 and 150 carloads of various items which move in small packages and require unloading by hand. The traffic moves over the line about 0.5 mile from the point of connection with the Pennsylvania or the Baltimore & Ohio ...".

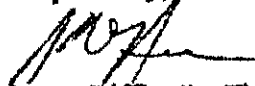
Based on the facts recited above, it would appear the PRR did acquire that portion of the MPR line that is the subject of my NOE, replaced the MPR's 90-pound rail with 130-pound rail, and replaced the MPR's 90-pound turnout with a PRR 152 # turnout. The Commission's Opinion also stated Morgan Millwork received traffic from both the Baltimore and Ohio and Pennsylvania railroads, and that this traffic moved over the portion of the MPR line that is the subject of my NOE. It should also be noted, the only Maryland portion of the MPR line that still has rails on it, is that portion which is the subject of my NOE.

From the facts recited above, I would deduce the PRR acquired that portion of the MPR line that is the subject of my NOE, then continued to use it as a line of railroad. Since Morgan Millwork had shipped / received traffic from the B&O via the MPR / B&O interchange, it would be reasonable to conclude that Morgan Millwork continued to ship / receive traffic on the B&O. Based on the above, it would appear that portion of the MPR line that is the subject of my NOE, continued to be used as a line of railroad after the MPR was granted authority to abandon its line of railroad.

The Baltimore Trolley Museum and the Maryland Transit Administration both have requested the effective date of my NOE be stayed. If the Board thinks a stay for 30-days would be appropriate, I would not oppose a 30-day stay. If the Board does grant a stay, I would suggest the period for filing comments be extended by two-weeks, to February 16, 2007. This would provide interested parties who have not made comments, time to file comments. It also would give me sufficient time to research the Board's records to ascertain whether the PRR / B&O ever filed a Petition to abandon that portion of the MPR line that they operated on.

Following the comment period, I would propose to file my reply to whatever comments were filed.

Respectfully,



James Riffin dba The Northern Central Railroad  
Applicant

## Visiting Monuments in "The Monumental City"

monuments

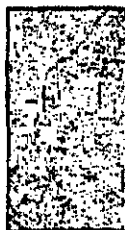
### "The Ma & Pa"

all photos by Adam Paul



Longest surviving piece of MA & PA trackage in Baltimore is this track at the North Avenue Bridge which was used as an interchange to the Pennsylvania Railroad tracks just west of Pennsylvania Station. In reality, the rails were laid down by the PRR around 1930, as they still used the rails after MPA abandonment to reach Morgan Millwork.

It was often called "WORLD FAMOUS." Others referred to it as the "model railroad built to the scale of 12 inches to the foot." Officially known as THE MARYLAND & PENNSYLVANIA RAILROAD, the "Ma & Pa" was arguably the most loved and cherished railroad in Baltimore. It carried with it a degree of charm not often seen on the larger railroads, largely the result of it's hilly, twisting route and smaller trains. It ran steam trains in regular service until the early 1950's, which were only sidelined as the road's traffic declined.



[Click Here to see a map of the Baltimore area trackage covered by the MA & PA.](#)

In 1958, the "Ma" of the Ma & Pa all but died, as the Maryland district trackage was abandoned, aside from a small part in Northernmost Harford County to Whiteford. Eventually, by the 1970's, the line would assume control of a ex-Pennsy line into

## RETURN OF SERVICE

Case Number: 34982

For:  
Christopher McNally  
21 W. Susquehanna Ave.  
Towson, MD 21204-5279

Received by Mason-Dixon Process Service, Inc. to be served on **JAMES RIFFIN, 1941 GREENSPRING DRIVE, TIMONIUM, MD 21093.**

I, Gregory Wilson, do hereby affirm that on the **1st day of February, 2007 at 11:00 am, I:**

**Delivered** the **PETITION TO REVOKE EXEMPTION FILED BY BALTIMORE STREETCAR MUSEUM, INC.** to the within named address.

**Additional Information pertaining to this Service:**

I went to 1941 Greenspring Drive, Timonium, Md 21093. I was told that the James Riffin had a mailbox in the back of the building but never came in. Tim O'Neill explained that he was authorized to accept service for James Riffin at the above stated address.

**Description of Person Served:** Age: 32+, Sex: M, Race/Skin Color: White, Height: 5/11, Weight: 225, Hair: Brown, Glasses: Y

I am over the age of 18 and have no interest in the above action.



**Gregory Wilson**  
Process Server

**Mason-Dixon Process Service, Inc.**  
8700 Old Harford Rd  
Suite U5  
Parkville, MD 21234  
(410) 665-4929  
Our Job Serial Number: 2007004613

**EXHIBIT**

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